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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,180	11/17/2003	Marshall L. Weingarden	A-03.71	3364

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EXAMINER

GEHMAN, BRYON P

ART UNIT PAPER NUMBER

3728

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,180

Applicant(s)

WEINGARDEN, MARSHALL L

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5, 7-10, 13-14, 16, 18 and 20 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Tillett et al. (5,332,089). Claims 1-3, 5, 7-10, 13-14, 16, 18 and 20 are finally rejected under 35 U.S.C. 102(e) as being anticipated by Fliegel (Figures 3-5)(6,574,188). Each discloses a hub post (20; 1; respectively) comprising a base having a basal surface (undersurface of 20; undersurface at 14 or 13 alone), the base having a lateral (radial) extent, a layer of adhesive on the basal surface (adhesive at 24, see column 4, lines 25-40; 13), a post (axial portion of 20; axial portion of 12 or 19) projecting (axially) from the base and including a substantially continuous, unbroken axial gripping surface, the base and post being integral and substantially solid and constructed from stiffly resilient synthetic polymeric material (cross-linked, closed-cell polyolefin foam; moss rubber) having resilient characteristics.

As to claims 2-3 and 13-14, the base and post are unitary and solid in construction.

As to claims 5 and 16, the durometer may be inherently met.

As to claim 7-10, the basal surface is spaced from the gripping surface and the further limitations relative to area and a base flange are met.

As to claims 18 and 20, the post is generally cylindrical.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7-10, 13-16, 18 and 20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Tillett et al. and Fliegel in view of Attar et al. (5,975,291). Tillett et al. and Fliegel have been explained above. To any degree it may be shown that the hub posts of Tillett et al. and Fliegel do not meet all the functional recitation of the claims, Attar et al. disclose a hub post constructed from (poly)urethane (see column 3, lines 18-57). To substitute the hub post material of Attar et al. for the hub post material of either one of Tillett et al. and Fliegel would have been obvious in order to allow some flexing but work well for a CD hub post, as suggested by Attar et al..

As to claims 2-3 and 13-14, the base and post of each of Tillett et al. and Fliegel are unitary and solid in construction.

As to claims 5 and 16, the durometer should be inherently met by the (poly)urethane of Attar et al..

As to claim 7-10, the basal surface of each of Tillett et al. and Fliegel is spaced from the gripping surface and the further limitations relative to area and a base flange are met.

As to claims 18 and 20, the post of each of Tillett et al. and Fliegel is generally cylindrical.

5. Claims 6 and 17 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 9 above, and further in view of Joyce et al. (5,417,324). Joyce et al. disclose providing a hub post of transparent polystyrene. To modify the employed prior art further by employing transparent (poly)urethane would have been obvious in view of Joyce et al. in order to allow viewing of the disk of the hub post without visual obstruction by the hub post.

6. Claims 11 and 12 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 9 above, and further in view of Condorodis (5,735,396). Condorodis discloses a canted hub post (see Figures 5 and 6A). To modify the employed prior art further by canting the hub post in the manner suggested by Condorodis would have been obvious in order to facilitate application of a disk to the hub post, as suggested by Condorodis.

7. Claims 19 and 21 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 9 and 1 above, and further in view of

Cerda-Vilaplana et al. (6,276,524). Cerda-Vilaplana et al. discloses a polyhedral hub post. To modify the employed prior art further by employing a polyhedral shape for the hub post would have been obvious, as such a shape was well known in the hub post field.

8. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection. Both Tillett et al. and Fliegel disclose substantially continuous unbroken gripping surfaces. The posts of both Tillett et al. and Fliegel are solid and have a balance of resilient and renitent characteristics to selectively grip and release a disk. With respect to the material, it appears numerous synthetic materials having a balance of resilient and renitent characteristics to selectively grip and release a disk have been employed in the field and there is no evidence that the choice of polyurethane is any better or worse than those actually employed by Tillett et al. and Fliegel. Attar et al. disclose that polyurethane was another synthetic material recognized in the disk engaging holder field to have a balance of resilient and renitent characteristics to selectively grip and release a disk, and to employ this particular material does not appear to distinguish any new and unexpected result by its selection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is presently (703) 605-1174 and effective November 9, 2004, becomes (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached presently on (703) 308-2672 and after November 9, 2004 on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555 effective November 8, 2004.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG